

§ 530.206

through errors in or omissions of required information, the name and current address of homeworkers and the data which is necessary for the accurate determination of hours worked by or wages paid to homeworkers or data necessary for the computation of wages owed to homeworkers is unavailable with respect to 10 percent or more of the homeworkers.

(g) *Deliberate misstatement in an application for a certificate or in other documents.* Upon a finding by the Administrator of a deliberate misstatement of a material fact in an application for a certificate, in payroll records, or in any other information submitted to the Wage and Hour Division or maintained by the employer pursuant to these regulations, the certificate shall be denied or revoked for one to three years.

(h) *Discrimination against a homeworke*r. Upon a finding by the Administrator that a certificate holder has discharged or otherwise discriminated against a homeworke

r with respect to the homeworke

r's compensation or terms, conditions, or privileges of employment because the homeworke

r engaged in protected activity, the certificate shall be denied or revoked for three years. Protected activity is defined as: (1) Any complaint of a violation of the Act to the employer, the Department or other appropriate authority, or (2) any action which furthers the enforcement of or compliance with the Act, such as giving information to a Wage and Hour compliance officer.

§ 530.206 Special circumstances.

At the discretion of the Administrator, a certificate need not be denied or revoked pursuant to §§ 530.204 or 530.205 of this subpart if the Administrator finds all of the following:

(a) The certificate holder, despite the exercise of due care, did not know and did not have reason to know of the violations;

(b) All back wages and civil money penalties found by the Administrator to be owing by the certificate holder have been paid; and

(c) The certificate holder has taken appropriate steps to prevent recurrence of the violations.

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Subpart D—Civil Money Penalties

SOURCE: 53 FR 45724, Nov. 10, 1988, unless otherwise noted.

§ 530.301 General.

A system of civil money penalties is established to provide a remedy for any violation of the FLSA related to homework (except child labor violations, which are subject to civil money penalties pursuant to part 579 of this chapter), or for any violation of the homeworke

r regulations or employers' assurances pursuant to this part, which are not so serious as to warrant denial or revocation of a certificate. Accordingly, no civil money penalty will be assessed for conduct which serves as the basis of proposed denial or revocation of a certificate. (See subpart C of this part.) Civil money penalties will be assessed only against employers who are operating under a certificate or who are seeking certification.

§ 530.302 Amounts of civil money penalties.

(a) A civil money penalty, not to exceed \$500 per affected homeworke

r for any one violation, may be assessed for any violation of the Act or of this part or of the assurances given in connection with the issuance of a certificate.

(b) The amount of civil money penalties shall be determined per affected homeworke

r within the limits set forth in the following schedule, except that no penalty shall be assessed in the case of violations which are deemed to be *de minimis* in nature:

Nature of violation	Penalty per affected homeworke		
	Minor	Substantial	Repeated, intentional or knowing
Recordkeeping	\$10-100	\$100-200	\$200-500
Monetary violations	10-100	100-200
Employment of homeworkers without a certificate	100-200	200-500
Other violations of statutes, regulations or employer assurances	10-100	100-200	200-500